

# In the Supreme Court of the United States

OCTOBER TERM, 1950

No. 13, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF TEXAS

## DECREE PROPOSED BY THE UNITED STATES

This cause came on to be heard on the motion for judgment filed by the plaintiff and was argued by counsel.

For the purpose of carrying into effect the conclusions of this Court as stated in its opinion announced June 5, 1950, it is ORDERED, ADJUDGED, AND DECREED as follows:

1. The United States of America is now, and has been at all times pertinent hereto, possessed of paramount rights in, and full dominion and power over, the lands, minerals and other things underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Texas, and outside of the inland waters, extending seaward to the outer edge of the continental shelf and bounded on the east and southwest, respectively, by the eastern boundary of the State of Texas

and the boundary between the United States and Mexico. The State of Texas has no title thereto or property interest therein.

2. The State of Texas, its privies, assigns, lessees, and other persons claiming under it, are hereby enjoined from carrying on any activities upon or in the submerged area described in paragraph 1 hereof for the purpose of taking or removing therefrom any petroleum, gas, or other valuable mineral products, and from taking or removing therefrom any petroleum, gas, or other valuable mineral products, except under authorization first obtained from the United States. On appropriate showing, the United States may obtain the other injunctive relief prayed for in the complaint.

3. The United States is entitled to a true, full, and accurate accounting from the State of Texas of all or any part of the sums of money derived by the State from the area described in paragraph 1 hereof subsequent to June 23, 1947, which are properly owing to the United States under the opinion entered in this case on June 5, 1950; this decree, and the applicable principles of law.

4. Jurisdiction is reserved by this Court to enter such further orders and to issue such writs as may from time to time be deemed advisable or necessary to give full force and effect to this decree.

In the Supreme Court of the United States

OCTOBER TERM, 1950.

No. 13, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF TEXAS

MEMORANDUM IN SUPPORT OF PROPOSED DECREE

In its opinion of June 5, 1950, in this case (339 U. S. 707), the Court held that the "motion of the United States for judgment is granted." 339 U. S., at 720. The Motion for Judgment filed by the United States in November 1949 had moved "for judgment as prayed in the Complaint \* \* \*." In its opinion, the Court concluded that "the parties, or either of them, may before September 15, 1950, submit the form of decree to carry this opinion into effect." 339 U. S., at 720. It is pursuant to that permission that the decree above set out is proposed by the United States.<sup>1</sup>

<sup>1</sup> Except for the description of the area involved, the proposed decree in this case is identical with that proposed in *United States v. Louisiana*, No. 12, Original.

The relief prayed for in the complaint filed by the United States (p. 9)<sup>2</sup> was "that a decree be entered adjudging and declaring the rights of the United States as against the State of Texas in the area herein described; enjoining the State of Texas, and all persons claiming under it from continuing to trespass upon the area in violation of the rights of the United States, and requiring the State of Texas to account to the United States for all sums of money derived by it from the area herein described subsequent to June 23, 1947."

1. Paragraph 1 of the proposed decree embodies the declaration of rights sought by the United States, and is in the same form as paragraph 1 of the decree entered in *United States v. California*, 332 U. S. 804, 805, modified to describe the area set out in paragraph II of the complaint herein.

As was the case in the *California* proceeding; this declaration of rights is general in terms. See 332 U. S. 19, 26, 805. We have always construed the similar declaration in the *California* case, and we construe the present one, as determining that the United States has full *dominium* and *imperium* in and over the described submerged area as against the State (see 339 U. S., at 717-719); that, as against the State, the United States has exclusive power and right with respect to the use,

---

<sup>2</sup> A copy of the complaint filed in this case is attached as an Appendix, *infra*, pp. 9-12.

disposition, management, and control of the described submerged area and its resources (see 339 U. S., at 719); and that the United States is possessed of whatever is the most accurate description of the full power and right to take and enjoy the complete benefit of the mineral and other resources of the bed of the sea—whether that description be characterized as fee-title, ownership, proprietorship, or paramount rights and full dominion.

Unlike Louisiana, the coast of Texas is relatively straight, contains few indentations, and presents very few, if any, problems in marking off the marginal belt from the inland waters. In the view of the United States, there is no present necessity to determine with greater definiteness any particular segments of the boundary of the area claimed by the United States, and the United States does not now propose to file a petition for a supplemental decree, such as was done in the case of *California*, and as we propose to do in *Louisiana's* case upon entry of the decree. All of the existing oil and gas wells bottomed in the subsoil of the marginal sea are readily identifiable, and are plainly beyond any lands owned by the State. There is, therefore, no present need for a precise demarcation between the marginal sea and the landward areas so far as petroleum operations are concerned, and we know of no other reason for further delimitation or identification of

either the federal or the state areas at the present time. If circumstances later require such further action by the Court, the United States will submit appropriate petitions for supplemental decrees.

2. Paragraph 2 of the proposed decree enjoins the State, and those claiming under it, from carrying on any activities in the described area, relating to the exploration, development, and production of oil, gas, or other mineral products of value, unless prior authorization has been obtained from the United States. The need for such injunctive relief is clear on the face of the pleadings. Paragraph V of the complaint asserts that the State has made leases to various persons and corporations which have entered upon the described area, have drilled wells for the recovery of petroleum, gas and other hydrocarbon substances, and have been producing quantities of such materials. Texas's amended answer, in its paragraph V, admits that it has executed leases for oil and gas development in the described area, that the lessees have entered upon the area and have drilled wells, some of which have been producing petroleum substances which the lessees have recovered, paying the State royalties thereon.

Injunctive relief against other types of trespasses is not sought at this time because no facts now known to the Government give rise to a present necessity for injunctive relief in any situa-

tions except those involving oil, gas, and other mineral substances of value. The proposed decree makes clear, however, that the United States is entitled to such other injunctive relief, upon a proper showing, and as circumstances may require.

3. Paragraph 3 declares that the United States is entitled to a proper accounting for the monies derived by the State from the described area since June 23, 1947. That date, which appears in the prayer for relief in the complaint (*supra*, p. 4, *infra*, pp. 11-12), is the date of this Court's decision in *United States v. California*, 332 U. S. 19; it was chosen because, in the Government's view, the Court's opinion gave adequate notice of the rights and powers of the United States in the submerged coastal lands, and certainly gave fair warning to any State that its right to collect monies derived from that area was, at best, highly doubtful.

The proposed decree refrains from directing or requiring an actual accounting and payment, in order to give the parties an opportunity to agree between themselves as to the sums owing by the State of Texas. If such an agreement cannot be reached in a reasonable time, the United States anticipates petitioning the Court for a further order relating to the ascertainment of the sums for which the State is accountable to the United States. It is, of course, not uncommon, in patent

infringement and many other types of cases, for the initial judgment or decree merely to declare the plaintiff's rights and the defendant's liability, leaving the actual amount of the recovery for later determination. Cf. Rule 39 of the Court of Claims.

4. Paragraph 4, which is in the same form as paragraph 3 of the *California* decree (332 U. S. 805), reserves jurisdiction to the Court to enter such further orders and to issue such writs as may be advisable or necessary. This reservation of jurisdiction is especially appropriate because of the possibility, if not the likelihood, that further action by the Court may be required with respect to the accounting or to additional injunctive relief.

It is respectfully submitted that the decree proposed by the United States be entered by this Court as soon as may be practicable.

PHILIP B. PERLMAN,  
*Solicitor General.*

SEPTEMBER 1950.

## APPENDIX

# In the Supreme Court of the United States

OCTOBER TERM, 1948

No. 14, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF TEXAS

### COMPLAINT

The United States of America, by its Attorney General and its Solicitor General, brings this suit against the defendant, the State of Texas, and for its cause of action states:

#### I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States:

#### II

At all times herein material, plaintiff was and now is the owner in fee simple of, or possessed of paramount rights in, and full dominion and power over, the lands, minerals and other things underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Texas and

outside of the inland waters, extending seaward to the outer edge of the continental shelf and bounded on the east and southwest, respectively, by the eastern boundary of the State of Texas and the boundary between the United States and Mexico.

### III

The State of Texas claims some right, title or interest in said lands, minerals and other things adverse to the United States.

### IV

In the exercise of the rights claimed by it, the State of Texas has, by general law, Act of July 23, 1919 (General Laws, 2d Called Session, 1919, page 51), as amended, authorized the leasing of lands underlying the Gulf of Mexico for the exploitation of petroleum, gas and other mineral deposits in the area herein described.

### V

Pursuant to that law, the State of Texas has negotiated and executed such leases with various persons and corporations, and those persons and corporations have, in violation of the rights of the United States, paid to the State substantial sums of money, entered upon said lands and drilled wells for the recovery of petroleum, gas and other hydrocarbon substances. Such wells have been producing quantities of petroleum, gas and other hydrocarbon substances which the lessees of the State have taken and converted to their own uses and for which the lessees have paid to the State substantial sums of money in bonuses,

rents and royalties reserved under the leases, but neither the State nor its lessees have recognized the rights of the United States nor have they paid to the United States either the value of the petroleum and other things taken from the area, or any royalties thereon.

## VI

The State of Texas has no title to or interest in any of the lands in the area herein described, but possesses only those governmental powers which it has with respect to other lands of the United States within the lawful territorial jurisdiction of the State.

## VII

The State has frequently and publicly denied the rights and powers of the United States in the area herein described and has claimed full and complete ownership of the area for itself and, unless the rights of the United States are established and declared by this Court, the State will continue to claim such ownership for itself and to exercise the rights incident to such ownership through its officers, agents, and employees, and will continue to aid, abet and encourage others, as its lessees, to trespass upon and to take and use the minerals and other things of value in the area, in violation of the rights of the United States, from which the United States will suffer irreparable injury, and for which it has no adequate remedy except by this action.

Whereof, plaintiff prays that a decree be entered adjudging and declaring the rights of the

United States as against the State of Texas in the area herein described, enjoining the State of Texas and all persons claiming under it from continuing to trespass upon the area in violation of the rights of the United States, and requiring the State of Texas to account to the United States for all sums of money derived by it from the area herein described subsequent to June 23, 1947.

TOM C. CLARK,

*Attorney General.*

PHILIP B. PERLMAN,

*Solicitor General.*

DECEMBER 1948.